

EVIDENTIARY HEARING
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:)
)
Application for Certification for) Docket No. 09-AFC-2
the Almond 2 Power Plant Project)
-----)

CALIFORNIA ENERGY COMMISSION
1516 NINTH STREET
SACRAMENTO, CALIFORNIA

FRIDAY, OCTOBER 1, 2010
9:07 A.M.

Reported by:
Diana Sasseen
CSR No. 13456

APPEARANCESHEARING OFFICER

Kourtney Vaccaro

COMMITTEE MEMBERS

Karen Douglas, Chair and Presiding Member

Lorraine White, Advisor to Commissioner Eggert

STAFF

Kerry Willis, Staff Counsel

Robin Mayer, Staff Counsel

Felicia Miller, Siting Project Manager

APPLICANT

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Brian L. LaFollette, PE, TID Water & Power

George A. Davies, IV, TID Water & Power

Susan Strachan, Strachan Consulting

Sarah Madams, CH2MHILL

Stephanie Moore, CH2WMHILL

Greg Tucker, TID Water & Power

Jeff Atkins, Sierra Research

Nancy Matthews, Sierra Research (via phone)

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PROCEEDINGS

PRESIDING MEMBER DOUGLAS: Good morning, everyone. Welcome to the evidentiary hearing on the proposed Almond 2 Power Plant Project. I'm Karen Douglas. Commission Eggert is the associate member of the committee, and his advisor, Lorraine White, is not immediately next to me on my left, but one seat over. On my immediate left is our hearing officer.

And at this point, can I ask that the applicant introduce themselves for the record.

MR. HARRIS: Good morning. Thank you. My name is Jeff Harris, of Ellison, Schneider & Harris, here on behalf of the district as counsel. To my right is Susan --

HEARING OFFICER VACCARO: Sorry, Mr. Harris, I think you turned off the mic.

MR. HARRIS: I hate when that happens. Should I start over?

Jeff Harris of Ellison, Schneider & Harris. To my right is Susan Strachan from Strachan Consulting, environmental consultant to the project. To my left is Brian LaFollette, who is, I think, the AGM for power supply and all things important.

Behind me is Greg Tucker, also with the district, George Davies with the district, Sarah Madams with

1 CH2MHILL, and Stephanie Moore in the back, also with CH2,
2 Jeff Atkins from Sierra Research, and Nancy Matthews with
3 Sierra Research on the phone.

4 HEARING OFFICER VACCARO: Thank you.

5 PRESIDING MEMBER DOUGLAS: And staff, could you
6 please introduce yourself.

7 MS. WILLIS: Good morning. My name is
8 Kerry Willis, I'm staff counsel, and with me is
9 Robin Mayer, staff counsel, and Felicia Miller, who is the
10 project manager. We also have air quality staff in the
11 room.

12 PRESIDING MEMBER DOUGLAS: Thank you.

13 And are there any intervenors in the room or on
14 the phone today?

15 All right.

16 Are there any public officials or representatives
17 of government agencies in the room or on the phone?

18 MR. GILL: Rupi Gill, permit services manager,
19 San Joaquin Air District.

20 PRESIDING MEMBER DOUGLAS: Thank you very much.

21 At this point, we're through the introductions.
22 I'll turn this back to Hearing Officer Vaccaro.

23 HEARING OFFICER VACCARO: Okay. I think for
24 those of you in person and those of you who might be on
25 the phone who haven't identified yourself, we are here

1 today for the prehearing conference and evidentiary
2 hearing for the Almond 2 Power Plant Project. I think
3 what we'll start with is a little bit of housekeeping, and
4 then we'll move into the introduction of evidence.

5 But just that so we're clear on the importance of
6 today's proceeding, this is very important because we need
7 to make sure that all of the oral and documentary evidence
8 is entered into the evidentiary record. We have plenty of
9 information in the public record, but that evidentiary
10 record is the basis for the presiding member's proposed
11 decision.

12 I think we all are aware that we're working
13 swiftly, we're looking for an end-of-the-year decision;
14 with that, the Committee does anticipate producing a PMPD
15 by the end of this month. So moving through today's
16 proceedings and ensuring that all of the information is in
17 the record, which will be opened and closed today, is
18 ideal. I think we've gone a long ways towards ensuring
19 that our exhibit lists, or topic of witness lists are
20 taken care of appropriately. I think we do still have a
21 few matters of housekeeping to address before we actually
22 get to the introduction of evidence.

23 So I think the first things are to work backwards
24 from what the Committee is understanding based on the
25 prehearing conference statement and the status conference.

1 This is what we understand: There are no issues
2 in dispute. Any conditions of certification that might
3 have been at issue, have been -- are no longer at issue
4 after the last workshop, and that all of the revised clean
5 language has been reviewed by the parties, and that is
6 incorporated in Staff's Exhibit 301.

7 We're also understanding that there will be no
8 oral testimony today with the exception of hearing from
9 Mr. Gill on behalf of the air district with respect to the
10 FDOC, in sponsoring the FDOC and making a few
11 representations with respect to that matter.

12 Have I misstated anything, Applicant?

13 MR. HARRIS: That's very correct. Thank you.

14 HEARING OFFICER VACCARO: Staff, have I misstated
15 anything?

16 MS. WILLIS: No. Everything you said was
17 correct.

18 HEARING OFFICER VACCARO: I think with that,
19 let's move to the witness list and the topic -- the topic
20 witness list and the exhibit list.

21 Are there any changes at all to make with respect
22 to the topic witness list? Based on what you all just
23 said, we shouldn't be making any changes because the only
24 item highlighted in green is Mr. Gill, but if, in fact,
25 there's something that we need to modify, please let me

1 know now.

2 Applicant?

3 MR. HARRIS: The list is -- appears to be the
4 list that we helped put together, and it looks complete to
5 us, so yes, thank you.

6 HEARING OFFICER VACCARO: Okay. And you've got
7 the witness topic list before you? Because you're looking
8 at the exhibit list.

9 MR. HARRIS: Yeah, I have that one as well. I
10 don't have any changes, but I will confess that having
11 just picked it up, so --

12 HEARING OFFICER VACCARO: Okay. This is the one
13 that I sent out several days -- I have no changes to this
14 document from the original document that was issued on
15 September 28th.

16 MR. HARRIS: With that clarification, the list is
17 correct. Thank you.

18 HEARING OFFICER VACCARO: Staff?

19 MS. MAYER: It's correct. Thank you.

20 HEARING OFFICER VACCARO: Okay. Thank you.

21 Now, I can't say the same with respect to the
22 exhibit list. There were some changes, and I made them
23 yesterday. I took some liberties with the changes, so let
24 me tell you what I've done. I'd issued for everyone's
25 review a tentative exhibit list on September 28th. In

1 response to my request for any clarifications,
2 modifications, and some contacts that I made with both
3 applicant and staff on the purely procedural matters of
4 ensuring that the appropriate exhibits and documents are
5 properly brought into the record, we've modified the
6 exhibit list.

7 You'll notice I think through the strike out and
8 the highlighted -- yellow highlighted items what's added
9 or what's changed.

10 From the applicant's perspective, here's what I
11 see. I see that you changed terminology. Instead of
12 referring to "electric transmission," you've used the
13 vernacular that we use here at the Energy Commission and
14 changed it to "transmission system engineering." And then
15 you made some additions to ensure that, instead of using a
16 broad topic, you gave us some subtopics of transmission
17 line safety and nuisance, power plant reliability,
18 efficiency, and design, which had not otherwise been
19 identified on your exhibit list or in the Attachment 3 to
20 the prehearing conference statement.

21 HEARING OFFICER VACCARO: Is that correct,
22 Mr. Harris?

23 MR. HARRIS: Yes, that is correct.

24 HEARING OFFICER VACCARO: Okay. So with that, do
25 you have any changes that you're going to make to

1 Attachment 3 of your prehearing conference statement? I
2 specifically refer to that document because we had asked
3 you at the September 16 conference to provide us with
4 somewhat of a road map so that we could enter information
5 in really quickly into the record today just on the
6 papers. And so what isn't captured in Attachment 3 to
7 your prehearing conference statement are the topics of
8 transmission line safety and nuisance, power plant
9 reliability, power plant efficiency, and facility design.

10 I could make the assumption that all of the
11 exhibits that you've identified for project description
12 and what was once known as "electric transmission" are
13 equally applicable to each of those four sections. If
14 that's true, then we can make sure that we have that tied
15 up right now on the record. If there are additional
16 exhibits that pertain to those topic areas, we need to
17 know that now as well.

18 MR. HARRIS: I believe the list is complete. I
19 do have one -- one other thing that we need to go back to
20 your previous item.

21 The list of witnesses, on Item 15, Soil and
22 Water, the applicant's witnesses there are the ones that
23 were in our prefiled testimony, Ms. Rose and Ms. Lambert.
24 In our filing yesterday we added -- per the Committee's
25 request added Mr. Davies, George Davies from TID, to talk

1 about the water issue. And this relates to the
2 supplemental information you requested on water issues.
3 So Mr. Davies, Matt Frank from CH2MHILL, and Vijay Kumar,
4 V-i-j-a-y K-u-m-a-r, for the reporter. So I apologize for
5 not catching that previously, but those declarations were
6 filed and served yesterday.

7 HEARING OFFICER VACCARO: And those declarations,
8 if you would, just identify for us on the exhibit list
9 where -- which exhibit numbers those pertain to.

10 Is that the replacement, Number 4, which was your
11 initial opening testimony and declarations, which then you
12 did a resubmittal? Is that where we would find all this
13 new information?

14 MR. HARRIS: Yes, that's correct. That's our
15 filing from yesterday, September 30th. There was two
16 issues there. We needed to add the additional
17 declarations, which are called out in that filing. Then
18 our original filing had blank page numbers, that I figured
19 out as I tried to refer to it myself. So exactly the same
20 document, just additional page numbers on that testimony;
21 we would replace that filing with the updated one.

22 HEARING OFFICER VACCARO: Okay. That's why I
23 highlighted the yellow, just to make sure that we got that
24 covered.

25 So just to go back as a point of clarification,

1 for the topics that we just covered, which were
2 transmission line safety and nuisance, power plant
3 reliability, power plant efficiency, facility design, are
4 the exhibits that you've identified as pertaining to
5 project description, electric transmission equally
6 applicable to each of those four areas?

7 MR. HARRIS: Yes.

8 HEARING OFFICER VACCARO: Are there any
9 additional exhibits that would apply to any of those four
10 areas?

11 MR. HARRIS: No. You identified in yellow 42,
12 43, 44, 45 and 46. Those are the only new exhibits that
13 I'm aware of.

14 HEARING OFFICER VACCARO: Okay. Any other
15 modifications, changes, additions from the applicant with
16 respect to the exhibit list?

17 MR. HARRIS: No. I'll try to keep up with you in
18 the future. That's great. Thank you.

19 HEARING OFFICER VACCARO: Staff, I'd ask the
20 same.

21 MS. WILLIS: No additions.

22 HEARING OFFICER VACCARO: Okay. And you did
23 notice I took the liberty with Item 301 to break them out,
24 specifically identify what you did with Exhibit 301, just
25 so that everyone is clear, that the counterparts to all of

1 these items that are found in Exhibit 300 are now replaced
2 and superseded by what's in Exhibit 301. So what we're
3 looking at is Exhibit 301 for the record for the evidence.

4 MS. MAYER: Yes, and staff counsel appreciates
5 the effort that you took there.

6 HEARING OFFICER VACCARO: Okay. Well, it looks
7 as though we're very clear now on what all the exhibits
8 are.

9 The question I have for you all, we made sure in
10 the September 16th status conference to ask that you do
11 this: Have you all seen one another's exhibits or have
12 you received them at this point in time?

13 Applicant?

14 MR. HARRIS: Yes. We received everything
15 electronically and I think in hard copies.

16 HEARING OFFICER VACCARO: Staff?

17 MS. MAYER: Staff has received everything, yes.

18 HEARING OFFICER VACCARO: Including the documents
19 that were submitted yesterday on the 30th by the
20 Applicant?

21 MS. MAYER: Yes.

22 HEARING OFFICER VACCARO: Okay. Do you
23 anticipate any objections to any of the testimony or the
24 evidence that has been submitted on the documents?

25 Applicant?

1 MR. HARRIS: No objections.

2 HEARING OFFICE VACCARO: Staff?

3 MS. MAYER: Staff has no objections.

4 HEARING OFFICER VACCARO: Okay. I think with
5 that, the Committee's willing to entertain a motion from
6 the Applicant to move your evidence into the record based
7 on the Attachment 3 to the Prehearing Conference
8 Statement, which identifies by topic each exhibit as well
9 as based on the exhibit list and corresponding documents
10 that we've just addressed.

11 MR. HARRIS: Yes. Attachment 3 as modified by
12 the Committee and the exhibit list as presented this
13 morning, I move both of those into evidence, if that is
14 the proper motion for you.

15 HEARING OFFICER VACCARO: Staff, do you have any
16 objection to that?

17 MS. MAYER: No.

18 HEARING OFFICER VACCARO: Okay. They're
19 admitted.

20 (Applicant's Exhibits 1-46 were received into
21 evidence.)

22 HEARING OFFICER VACCARO: Staff, entertain a
23 similar motion from you to enter your documentary evidence
24 into the record.

25 MS. MAYER: Yes. We request to move

1 Exhibits 301, 302, and 303 into the exhibit record.

2 HEARING OFFICER VACCARO: Any objections,
3 Applicant?

4 MR. HARRIS: No objections.

5 HEARING OFFICER VACCARO: Okay. With that,
6 deemed admitted.

7 (Staff's Exhibits 301-303 were admitted into
8 evidence.)

9 HEARING OFFICER VACCARO: I think the next order
10 of business is that we do have some oral testimony that we
11 will be receiving from the air district, Mr. Gill, with
12 respect to the FDOC. So we're going to need Mr. Gill
13 sworn in.

14 Mr. Gill, are you still there?

15 MR. GILL: Yes, I am.

16 HEARING OFFICER VACCARO: Okay. The court
17 reporter is going to swear you. So you need to hold up
18 your right hand. You're on the honor system; we can't see
19 you, but we trust that you're actually doing this. And
20 please listen to what the court reporter tells you.
21 Whereupon,

22 RUPI GILL
23 was called as a witness herein and, having been first duly
24 sworn, was examined and testified as follows:

25 HEARING OFFICER VACCARO: Staff, your witness.

1 DIRECT EXAMINATION

2 MS. MAYER: Mr. Gill, please state your
3 qualifications for the record.

4 MR. GILL: Yes. I'm a permit services manager
5 for the San Joaquin Air District.

6 MS. MAYER: And you're responsible for the final
7 determination of compliance?

8 MR. GILL: That's correct.

9 MS. MAYER: And do you have any updates for us
10 today regarding that subject?

11 MR. GILL: That we are sponsoring the FDOC, and
12 they comply with all the rules and regulations. So we are
13 good.

14 MS. MAYER: I'm sorry. Can you say that again?

15 MR. GILL: Yes. We are sponsoring the FDOC, and
16 we have determined that they complied with all the rules
17 and regulations.

18 MS. MAYER: And you don't have any updates?

19 MR. GILL: No. Nothing changed.

20 MS. MAYER: Okay. Thank you, Mr. Gill.

21 HEARING OFFICER VACCARO: This is Hearing Advisor
22 Vaccaro. I do have one question for you, Mr. Gill. And I
23 just want to be clear that that FDOC does ensure to the
24 district's satisfaction that the Applicant has the
25 emission reduction credits that are required for the

1 district offsets; is that correct?

2 THE WITNESS: That's correct. They are fine.

3 HEARING OFFICER VACCARO: Great. Thank you very
4 much. Thank you for your time. I don't have any further
5 questions.

6 Does anyone else have a question for Mr. Gill?
7 Applicant?

8 MR. HARRIS: No questions. Thank you.

9 HEARING OFFICER VACCARO: Staff?

10 MS. MAYER: No.

11 HEARING OFFICER VACCARO: Committee members?

12 Okay. Thank you, Mr. Gill, for your time.

13 THE WITNESS: Thank you.

14 HEARING OFFICER VACCARO: I think at this point
15 what we've been able to accomplish is we have our record
16 open, we have the evidence admitted. I think we can close
17 the record on all the topical areas at this point.

18 Before we move to any public comment though, I'd
19 like to ask whether Ms. White or the Chairman have any
20 questions or comment for the parties.

21 PRESIDING MEMBER DOUGLAS: No, I have no
22 questions.

23 HEARING OFFICER VACCARO: Any closing comments
24 from either the Applicant or staff?

25 MR. HARRIS: I think Mr. LaFollette would like to

1 say something on behalf of the district very briefly.

2 MR. LaFOLLETTE: Yes, very briefly I want to
3 thank you for -- with all the resource implications that
4 you're currently dealing with, for attending to this
5 project. We appreciate it very much; I know our
6 ratepayers will appreciate it very much. Thank you.

7 MS. MAYER: Likewise, Staff appreciates
8 Applicant's cooperation on the few issues that we've had.

9 HEARING OFFICER VACCARO: Okay. With that, I'll
10 turn to public comment.

11 We don't have our hearing advisor, Jennifer
12 Jennings, here, but I have not heard from the public
13 advisor's office that there are any members of the public
14 who wanted to make a comment but could not be present. It
15 doesn't appear that there's anyone in the audience who is
16 a member of the public; is that correct?

17 Okay. Silence. So I think that's correct.

18 Is there anyone on the telephone who might wish
19 to make a public comment at this time?

20 Hearing none, I think we have no public comment.

21 Again, I think I'll close with just thanking the
22 parties for making sure that everything is as it needed to
23 be so that we could move swiftly this morning,
24 efficiently, but nonetheless quite thoroughly, because
25 that's really more important than moving swiftly, is being

1 thorough.

2 We did indicate that by the end of the month the
3 Committee anticipates issuing the Presiding Member's
4 Proposed Decision, so I think the next time that we will
5 see all of you is for the conference on the PMPD.

6 Thank you.

7 (Thereupon the California Energy Commission,
8 Almond 2 Power Plant Project Evidentiary Hearing
9 adjourned at 9:24 a.m.)

REPORTER'S CERTIFICATE

I, DIANA SASSEEN, a Certified Shorthand Reporter for the State of California, do hereby certify that I am a disinterested person herein; that I stenographically recorded the foregoing California Energy Commission Evidentiary Hearing; that it was thereafter transcribed by me into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 4th day of October 2010.

Diana Sasseen, CSR No. 13456
Certified Shorthand Reporter
State of California